



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001851

[REDACTED]

Dear [REDACTED],

On March 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 24, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

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## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible to enroll in a qualified health plan at full cost, and not eligible for Medicaid?

## Procedural History

On February 23, 2015 the Marketplace received your modified application for health insurance. That day, the Marketplace made a preliminary eligibility, stating that you were eligible to enroll in a qualified health plan at full cost and your child was eligible to enroll in a health insurance plan through Child Health Plus (CHP) with a \$15.00 per month premium.

Also on February 23, 2015 you spoke with the Marketplace's Account Review unit and appealed that preliminary eligibility determination as it relates to your ineligibility for Medicaid.

On February 24, 2015 the Marketplace issued an eligibility determination notice. That notice stated that you were eligible to purchase a qualified health plan at full cost through the Marketplace. You were not eligible for advance premium tax credits because you were not planning on filing a tax return, and you were not eligible for Medicaid because the household income you provided of \$37,344.00 was over the allowable income limit.

On March 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days for you to submit evidence of your income and your

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daughter's income, as directed by the Hearing Officer. On March 30, 2015 you uploaded evidence of the amount of Social Security benefits you and your daughter receive to your Marketplace account. The record is now closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you are only appealing the fact that you were not found eligible for Medicaid.
- 2) You testified that you will not be filing a tax return for the 2015 tax year.
- 3) You testified that your household only consists of you and your 15-year-old daughter.
- 4) At the time of the February 24, 2015 eligibility determination your application listed an annual household income of \$37,344.00. This income consisted of \$18,672.00 in income you receive from Social Security benefits, and \$18,672.00 your daughter receives from Social Security benefits.
- 5) You provided a copy of a letter from the Social Security Administration entitled Your New Benefit Amount. It states that for 2015 your monthly benefit amount is \$1,675.00.
- 6) You provided a copy of a letter from the Social Security Administration entitled Your New Benefit Amount. It states that for 2015 your daughter's monthly benefit amount is \$1,675.00.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "modified adjusted gross

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income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

“Gross income” is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual’s Social Security benefits are included in gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” plus one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

### Household Income

The MAGI-based income of an individual who is included in the household of his or her natural, adopted or step parent and is not expected to be required to file a tax return in the year in which eligibility for Medicaid is being determined, is not included in household income (42 CFR § 435.603(d)(2)(ii)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2015 year, a dependent who has yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 will be required to file a tax return (see IRS Revenue Procedure 2014-61).

“Unearned income” is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of social security and pension payments (IRS Publication 929, p. 15).

## **Legal Analysis**

The first question is whether the Marketplace properly determined your household’s expected income for 2015.

In the February 23, 2015 application, you attested to a 2015 expected annual household income of \$37,344.00, which included \$18,672.00 in income you receive from Social Security benefits, and \$18,672.00 your 15 year-old-daughter receives from Social Security benefits. The Marketplace included your daughter's Social Security benefits in your household income when determining your eligibility for financial assistance.

A child's Social Security benefits are counted in a household's gross income only to the extent that the child would be required to file a federal income tax return if the sum of the child's "modified adjusted gross income" plus one-half of their Social Security benefits is greater than \$25,000.00.

The credible evidence of record indicates that your daughter has no earned income. To determine the amount of unearned income your daughter has, the sum of her MAGI-based income plus half of her Social Security benefits cannot exceed \$25,000.00. The credible evidence supports that your daughter intends to receive \$18,672.00 in Social Security Benefits, half which does not exceed \$25,000.00. Therefore, her benefits are not counted as gross income and her expected unearned income for 2015 is \$0.00.

Since your daughter expects no earned income during 2015 and her expected unearned income is less than \$1,050.00, the record as currently developed does not indicate that she will be required to file a federal tax return during 2015.

Since the record does not indicate that your daughter will be required to file a federal tax return, her income should not be included in your expected household income for 2015.

You testified that you do not intend to file an income tax return for the 2015 tax year. However, you are not a child or a tax dependent so your income, regardless of the fact that you may not be required to pay taxes on it, is still included in the household's MAGI income for the purposes of determining your eligibility for health insurance through the Marketplace. Therefore, when the Marketplace determined your eligibility on February 23, 2015, it should have counted only your income from social security benefits of \$18,672.00.

Since the February 23, 2015 determination is based on a miscalculation of your expected 2015 household income, it is **RESCINDED**.

You provided a copy of a letter from the Social Security Administration entitled Your New Benefit Amount. It states that for 2015 your monthly benefit amount is \$1,675.00. Therefore, your annual household income for 2015 is expected to be \$20,100.00.

Your case is **RETURNED** to the Marketplace for redetermination of your eligibility based on a two-person household with a household income of \$20,100.00.

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## **Decision**

The February 24, 2015 eligibility determination is RESCINDED.

Your case is returned to the Marketplace based on a 2015 expected household income of \$20,100.00.

**Effective Date of this Decision:** August 21, 2015

### **How this Decision Affects Your Eligibility**

This decision does not determine your final eligibility for financial assistance.

It returns your case to the Marketplace for redetermination of your eligibility on your corrected household income.

### **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The February 24, 2015 eligibility determination is RESCINDED.

This decision does not determine your final eligibility for financial assistance.

It returns your case to the Marketplace for redetermination of your eligibility on your expected 2015 household income of \$20,100.00.

## **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).



**A Copy of this Decision Has Been Provided To:**

